

# EXHIBIT 4

Jessica S. Brady  
July 16, 2024

U.S. DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DONQUARION LEWIS; KE'AUJANAA

SHEPHERD-FRIDAY; and K.B.,

by and through her parent

and next friend, H.B.,

Plaintiffs, Hon. Robert J. Jonker

vs. Mag. Phillip J. Green

MICHIGAN DEPARTMENT OF

EDUCATION, a governmental

agency,

Defendant.

The Deposition of JESSICA S. BRADY,  
Taken at 525 West Ottawa Street,  
Lansing, Michigan,  
Commencing at 10:15 a.m.,  
Tuesday, July 16, 2024,  
Before Peggy S. Savage, CSR-4189, RPR.

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- 1 Q. Okay. And SEA is a state educational agency, right?
- 2 A. Correct.
- 3 Q. A FAPE or an F-A-P-E is a free appropriate public
- 4 education, right?
- 5 A. Correct.
- 6 Q. A CAP is a corrective action plan; is that right?
- 7 A. Correct.
- 8 Q. The SPP is a state performance plan; is that right?
- 9 A. Correct.
- 10 Q. And APR is an annual performance report; is that
- 11 right?
- 12 A. Correct.
- 13 Q. Okay. I'm going to have some more that we go over as
- 14 time goes on. I just like to get some of that out of
- 15 the way so that everyone knows we're speaking the same
- 16 language. Okay.
- 17 MARKED FOR IDENTIFICATION
- 18 DEPOSITION EXHIBIT 81
- 19 10:26 a.m.
- 20 BY MR. SICKON:
- 21 Q. Now, if we'll turn to Exhibit 81 in the binder. Do
- 22 you recognize what this document is?
- 23 A. Yes.
- 24 Q. Is this a staff directory for the MDE OSE?
- 25 A. This is the organization chart.

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- 1 noncompliance, would also check to see if that were
- 2 widespread in the district; is that right?
- 3 A. No.
- 4 Q. Am I understanding you? No.
- 5 How am I misunderstanding you?
- 6 A. It is widespread.
- 7 Q. The example that we're talking about, B-12?
- 8 A. No.
- 9 Q. What is widespread?
- 10 A. In a monitoring visit --
- 11 Q. Yes.
- 12 A. -- when performance reporting pulls a sample of
- 13 records, if it is found in one, because it is a sample
- 14 of records, it is determined it is widespread, non- --
- 15 a noncompliance.
- 16 Q. I think I understand. Okay. Okay. All right.
- 17 Monitoring in this way, you're pulling a
- 18 selection of student records, like you said, a sample,
- 19 right?
- 20 A. Yes.
- 21 Q. How do you determine the number of students for a
- 22 sample that you review?
- 23 A. There are business rules.
- 24 Q. Okay. And those are formulas for determining the
- 25 sample size?

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- 1 A. Yes.
- 2 Q. Do those -- how do those business rules work? Are --
- 3 is it related to the number of students eligible for
- 4 special education in a district, in an ISD?
- 5 A. The business rules have to do with error, percent of
- 6 time that we would perceive error.
- 7 Q. Could you elaborate, please?
- 8 A. So if there was -- if we pulled eight records or
- 9 20 records, what is the probability that there would
- 10 be an error if we didn't -- if we pulled less or more
- 11 if -- because it's a random selection.
- 12 Q. And that chance of error, is that determined based on
- 13 experience monitoring for that issue?
- 14 A. Statistical.
- 15 Q. Statistical experience?
- 16 A. I can't exactly tell you. I had an ed research
- 17 consultant do it.
- 18 Q. If you need a degree in statistics to understand it,
- 19 I -- we'll struggle. I appreciate it.
- 20 Is there any other information concerning
- 21 these business rules that is online or elsewhere?
- 22 A. Business rules are not online.
- 23 Q. Okay. Are there internal guidance documents that MDE
- 24 has concerning business rules?
- 25 A. Yes.

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1 Q. Would you be able to provide them?  
2 A. I could get them.  
3 Q. Okay. Okay. And so if you find noncompliance within  
4 a sample, because you have these business rules, and  
5 you know that there is an issue that's widespread; is  
6 that right?  
7 A. Correct.  
8 Q. Okay. And so at the point when you find the  
9 noncompliance, do you then request additional records  
10 to see where else the issue may be?  
11 A. No.  
12 Q. Okay. In the example we were talking about with B-12,  
13 there was one student that you found and then four  
14 similarly situated students.  
15 In that hypothetical, were you thinking  
16 that in that sample that you collected, there were  
17 five issues in the sample?  
18 A. Correct.  
19 Q. So you don't take another sample when you find  
20 noncompliance; is that right?  
21 A. Correct.  
22 Q. Okay. All right. And so we were talking about  
23 verification of student-level correction of  
24 noncompliance, and so that's what would be required at  
25 the student level, right?

1 A. Correct.  
2 Q. Now, backing up, there was also verification of  
3 district-level noncompliance. Can you please describe  
4 that?  
5 A. Yes. So after the student level has been corrected,  
6 we do a system-level verification where the Office of  
7 Special Education pulls another sample of students to  
8 ensure that at the system level that has been  
9 corrected.  
10 Q. I see.  
11 A. So that gets to that -- your questions before.  
12 Q. Yes. Okay. That makes sense.  
13 Now, the systems level, that occurs after  
14 the student-level correction is already verified; is  
15 that right?  
16 A. Yes.  
17 Q. Okay. And at the systems level, another sample is  
18 taken, right?  
19 A. Correct.  
20 Q. And that sample also is taken according to similar  
21 business rules; is that right?  
22 A. Correct.  
23 Q. Okay. To ensure that the sample taken would be  
24 representative and, if found, correction, then -- I'm  
25 sorry, noncompliance, it would be understood it would

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1 be widespread? I can rephrase that. I apologize.  
2 The business rules are similar for the  
3 sample of the systems, right?  
4 A. Correct.  
5 Q. So if you identified noncompliance in that sample, you  
6 would know the issue was not corrected, right?  
7 A. Correct.  
8 MR. SICKON: I'd like to take one more  
9 five-minute break, if that's all right with everybody.  
10 (Off the record at 12:20 p.m.)  
11 (Back on the record at 12:25 p.m.)  
12 BY MR. SICKON:  
13 Q. All right. Ms. Brady, we were just talking about  
14 student-level and system-level verification for  
15 noncompliance found during monitoring. We had  
16 discussed how, at nine months, an ISD or member  
17 district ought to prompt ISD to start performing the  
18 verification process, right?  
19 A. Yes.  
20 Q. Okay. That leaves three months for OSE to verify; is  
21 that right?  
22 A. Kind of.  
23 Q. The issue must be corrected with one -- within one  
24 year of identification, right?  
25 A. Correct.

1 Child Find, right?  
2 A. Yes.  
3 Q. Now, we talked a little bit about how CAPs operate.  
4 How would this CAP work? How would it -- what do you  
5 imagine this CAP would require KPS to do?  
6 A. A full corrective action plan.  
7 Q. How do you imagine they would satisfy that corrective  
8 action plan, if you know?  
9 A. I -- whatever -- they would have to do a -- develop a  
10 RAP team and then develop activities to fill those  
11 activities and then the Office of Special Education  
12 would have to verify correction of -- verify  
13 correction of noncompliance.  
14 Q. And would that include the same sampling review of  
15 educational files that we talked about at the student  
16 level and system level?  
17 A. Yes.  
18 Q. Okay. When it comes to those reviews, that  
19 verification of the student and system level, who  
20 performs those reviews?  
21 A. Both the ISD and the Office of Special Ed.  
22 Q. So in this instance, the member district, KPS, would  
23 provide the educational records for, let's say, the  
24 student level to the ISD to review; is that right?  
25 A. Yes.

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1 Q. And then the ISD would then provide it to OSE; is that  
2 right?  
3 A. Yes.  
4 Q. And the same would be true for the systemwide  
5 verification, right?  
6 A. Yes.  
7 Q. Okay. Would there be a statewide monitor assigned to  
8 do the review for OSE at that student and system  
9 level?  
10 A. Potentially.  
11 Q. Who else could do that work at performance review --  
12 I'm sorry, performance reporting?  
13 A. Any of the monitoring and technical assistance  
14 consultants.  
15 Q. Or the statewide monitors that are contracted, right?  
16 A. Correct.  
17 Q. Okay. All right. Would program accountability have  
18 any involvement in either issuing or verifying this  
19 CAP?  
20 A. No.  
21 Q. Okay. On the next page, on 3, at the top there it  
22 shows that KPS was issued an UNC CAP concerning 4B; is  
23 that right?  
24 A. Yes.  
25 Q. That's suspension and expulsion by race or ethnicity,

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1 help with state complaint, district-level CAPs?  
2 A. It's hard to quantify.  
3 Q. If you had to guess.  
4 A. I -- I can't guess.  
5 Q. Who, at performance reporting, would help with the  
6 verification of a correction of noncompliance that's  
7 the result of a state complaint, district-level CAP?  
8 A. Statewide monitors.  
9 Q. Okay. And those are the contract employees?  
10 A. Yes.  
11 Q. Okay. And so those statewide monitors can receive  
12 work from program accountability as well as  
13 performance reporting; is that right?  
14 A. Yes.  
15 Q. Can they receive that work independent of performance  
16 reporting knowing about it?  
17 A. It's a weird question.  
18 Q. I'm just wondering if they can receive assignments  
19 from program accountability that performance reporting  
20 wouldn't know about?  
21 A. It's assigned by Catamaran.  
22 Q. When you say Catamaran assigns work to statewide  
23 monitors, is there a formula or an algorithm in  
24 Catamaran that's choosing who works on CAPs?  
25 A. So for performance reporting, we say you're going

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1 to -- this person is going to work on these member  
2 districts within this ISD for complaints. If we are  
3 going to work on district-level complaints, I say for  
4 the month of January, it will be Christy. For the  
5 month of February, it will be this person. That's why  
6 I can't quantify how many were released, right. So it  
7 could be 15 were released in January. One was  
8 released in February. But Christy had January.  
9 Kelley had February. I don't know whoever else. I  
10 can't ...  
11 Q. So on a monthly basis, you assign people to help with  
12 those state complaint, district-level CAPs?  
13 A. Correct.  
14 Q. And that rotation among your staff is geographical as  
15 well?  
16 A. No.  
17 Q. No. It's just based on the assignment, the work type?  
18 A. For complaint CAPs, it's based on a month.  
19 Q. Okay.  
20 A. For monitoring CAPs, it's based geographical.  
21 Q. Okay. Are the geographical assignments permanent?  
22 A. It doesn't have to be, no.  
23 Q. No. Okay.  
24 Would you know -- and this is for -- is  
25 this for statewide monitors, or is it for also the

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1 other monitoring group that you supervise?  
2 A. Which one?  
3 Q. The monitoring technical assistance group.  
4 A. The monitoring CAPs are geographical for the  
5 monitoring and technical assistance team and the  
6 statewide monitors.  
7 Q. Okay. Would you happen to know who is assigned to  
8 monitoring CAPs for KRESA, Kalamazoo Regional  
9 Educational Service Agency?  
10 A. I do not know.  
11 Q. Okay. Do you know who would be assigned to Kalamazoo  
12 Public Schools?  
13 A. The same person that assigned the KRESA.  
14 Q. Okay. All right. But for the other CAPs, the program  
15 accountability CAPs, the state complaint CAPs, those  
16 are assigned by month; is that right?  
17 A. Correct.  
18 Q. And that involves the same group, the monitoring and  
19 technical assistance folks and the statewide monitors?  
20 A. No.  
21 Q. Who is in that group?  
22 A. The statewide monitors for complaint CAPs.  
23 Q. I see. So it doesn't include the monitoring and  
24 technical assistance group?  
25 A. Correct.

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1 refer students for evaluation who might have  
2 disabilities?

3 MS. HENDLEY: Objection, form.

4 You can answer, if you can.

5 THE WITNESS: If a concerned citizen  
6 notifies us that their child has not been evaluated or  
7 someone in the community has not been evaluated, and  
8 they requested an evaluation, we certainly monitor.

9 BY MR. SICKON:

10 Q. Okay. When you say that you monitor, how do you  
11 capture the data of that concern?

12 A. It is either in a state complaint or addressed at the  
13 ISD.

14 Q. Would that be with the assistance of an ISD compliance  
15 monitor?

16 A. An ISD representative.

17 Q. Okay. Are there any other ways through MSDS -- it  
18 could be, you know, the Wayne State surveys, any other  
19 information -- that you receive other than from a  
20 concerned citizen about students who may need special  
21 education evaluations who don't get referred for it?

22 A. Besides a state complaint?

23 Q. Correct.

24 A. I don't think so.

25 Q. Okay. Now, the next sentence in that paragraph states

1 that based on the analysis of such data and  
2 information, states may determine whether targeted  
3 monitoring -- and then it starts a parenthetical,  
4 i.e., a monitoring activity that occurs outside of the  
5 state's normal cycle to address emerging or new  
6 issues, and typically is limited in scope, end  
7 parenthetical, is appropriate to ensure that the  
8 relevant IDEA requirements are properly implemented.

9 Is that right?

10 A. Yes. That's what it says.

11 Q. Okay. Does performance reporting perform targeted  
12 monitoring in the same sense that it is used in this  
13 sentence?

14 A. No.

15 Q. Does any other office in OSE -- or any other unit -- I  
16 apologize -- in OSE perform targeted monitoring like  
17 it's used in that sentence?

18 A. No.

19 Q. Any other office within MDE?

20 A. Not that I'm aware of.

21 MR. SICKON: Okay. All right. It's been  
22 about an hour since we started up again. I'd just  
23 like to take another five-minute break, if that's all  
24 right with everyone.

25 MS. HENDLEY: Yes. Thank you.